

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS DRIVETRAIN, LLC, as Trustee of the Ignite Restaurant Group GUC Trust	DEFENDANTS 1 st FM LLC	
ATTORNEYS (Firm Name, Address, and Telephone No.) Michael D. Warner (TX Bar No. 00792304) Benjamin L. Wallen (TX Bar No. 24102623) Cole Schotz PC 301 Commerce Street, Suite 1700 Fort Worth, TX 76102 Telephone: (817) 810-5250; Facsimile: (817) 810-5255 Email: mwarner@coleschotz.com; bwallen@coleschotz.com	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Avoidance and recovery of preferential transfers (11 U.S.C. §§ 547 & 550); preservation of preferential transfers (11 U.S.C. § 551)		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 70 01(1) – Recovery of Money/Property</p> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other</div> <div style="width: 48%;"> <p>FRBP 70 01(6) – Dischargeability (continued)</p> <input type="checkbox"/> 61 -Dischargeability- §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65 -Dischargeability - other</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>FRBP 70 01(2) – Validity, Priority or Extent of Lien</p> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</div> <div style="width: 48%;"> <p>FRBP 70 01(7) – Injunctive Relief</p> <input type="checkbox"/> 71 -Injunctive relief- imposition of stay <input type="checkbox"/> 72-Injunctive relief - other</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>FRBP 7001(3) – Approval of Sale of Property</p> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</div> <div style="width: 48%;"> <p>FRBP 70 01(8) Subordination of Claim or Interest</p> <input type="checkbox"/> 81 -Subordination of claim or interest</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>FRBP 7001(4) – Objection/ Revocation of Discharge</p> <input type="checkbox"/> 41-Objection/re vocation of discharge - §727(c),(d),(e)</div> <div style="width: 48%;"> <p>FRBP 70 01(9) Declaratory Judgment</p> <input type="checkbox"/> 91 -Declaratory judgment</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>FRBP 7001(5) – Revocation of Confirmation</p> <input type="checkbox"/> 51-Revocation of confirmation</div> <div style="width: 48%;"> <p>FRBP 70 01(10) Determination of Removed Action</p> <input type="checkbox"/> 01 -Determination of removed claim or cause</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability</p> <input type="checkbox"/> 66 -Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny</div> <div style="width: 48%;"> <p>Other</p> <input type="checkbox"/> SS-SIPA Case - 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</div> </div>		

(continued next column)

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR IGNITE RESTAURANT GROUP, INC., et al.		BANKRUPTCY CASE NO. 17-33550 (DRJ)
DISTRICT IN WHICH CASE IS PENDING Southern District of Texas	DIVISION OFFICE Houston Division	NAME OF JUDGE Hon. David R. Jones
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF DRIVETRAIN, LLC, as Trustee of the Ignite Restaurant Group GUC Trust	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING Southern District of Texas	DIVISION OFFICE Houston Division	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) COLE SCHOTZ PC /s/ Michael D. Warner		
DATE: May 22, 2019	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Michael D. Warner	

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.